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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,097	08/08/2003	Yu Zheng	PAT-1130CC2	5018

7590 11/02/2004
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EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,097

Applicant(s)

ZHENG, YU

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18 and 20-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18 and 20-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 18 and 20-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of U.S. Patent No. 6,604,537. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18, 20-22 and 24-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 10, 11, 13, 15, 17-19, 21, 23 and 24 of U.S. Patent No. 6,209,557. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via sleeves. Since the frames of the folding panels are

themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18 and 20-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 8 and 12 of U.S. Patent No. 5,778,915. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via stitching and sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18, 20-22 and 24-26 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 9-12 of U.S. Patent No. 5,579,799. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claims 18 and 20-27 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2 and 5 of U.S. Patent No. 5,560,385. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant invention and patent teach a pair of foldable panels removably attached at adjacent edges thereof via stitching and

sleeves. Since the frames of the folding panels are themselves foldable it would be obvious to twist and/or fold them in a manner wherein concentric rings are formed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 20-22 and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Springer. Springer teaches a collapsible structure (Fig. 3) comprised of a side member (14) and base member (16), each including a foldable frame member (32,34) and having fabric there over. The side and base members being hingedly attached at their bottom/side respectively via sleeves (36) and fold on top of each other forming concentric rings. Note: limitations found in “for”/intended use statements have been given no weight in the claims. Also, connected features always start out separate, are always individual/separate features and can always be separated.

Claims 18 and 20-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Norman. Norman teaches a collapsible structure (Fig. 1; laying one member 102 on the floor) comprised of a side member (102) and base member (102 member on floor), each including a foldable frame member and having fabric there over. The side and bottom members being hingedly attached at their bottom/side respectively via sleeves and stitching (see Fig. 8) and fold on top of each other forming concentric rings. Note:

limitations found in "for"/intended use statements have been given no weight in the claims. Also, connected features always start out separate, are always individual/separate features and can always be separated.

Response to Arguments

Applicant's arguments filed August 6, 2004 have been fully considered but they are not persuasive.

Addressing the arguments concerning the 102(b) rejection over Springer: the examiner contends that Springer teaches all of the features specified and positively recited in the claims, including first and second sleeves. Nowhere in the claims is the limitation that the members are retained in separate sleeves positively claimed. Furthermore, as noted above, limitations found in "for"/intended use statements have been given no weight in the claims. However, even if the sleeve/frame member connections were positively claimed, Springer does teach a first frame retaining sleeve (one member 36) which retains a portion of the side member (32) and a second frame retaining sleeve (another member 36) which retains a portion of the base member (34). As for the side frame and base frame members being separate from each other when connected, the examiner contends that these frame members are always separate, distinct articles and therefore, meet this limitation in its broadest sense.

Addressing the arguments concerning the 102(b) rejection over Norman: the examiner contends that Norman teaches all of the features specified and positively recited in the claims, including the base and frame member. As stated above, by laying

one member 102 on the floor, the structure is then comprised of a side member (102) and base member (102 member on floor). The terms "side" and "base" being relative depending on the positioning of the entire structure.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

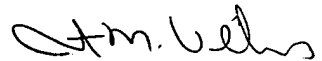
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
April 30, 2004


JANET M. WILKENS
PRIMARY EXAMINER
